

CHASE PARTNERING AGREEMENT

between the

**NEW MEXICO ENVIRONMENT DEPARTMENT
OCCUPATIONAL HEALTH AND SAFETY BUREAU
&
ASSOCIATED GENERAL CONTRACTORS OF AMERICA
NEW MEXICO BUILDING BRANCH**

The New Mexico Occupational Health and Safety Bureau (**NM OSHA**) and Associated General Contractors (**AGC**), New Mexico Building Branch, mutually recognize the importance of providing a safety and healthful working environment for New Mexico's construction workforce. To advance our mutual goal, we strongly agree on the need to develop a working relationship that creates mutual trust and respect for the respective roles of each organization in the construction process.

We remain committed to work as partners to achieve construction workplace safety through implementing the provisions of the Construction Health and Safety Excellence (**CHASE**) partnering program as stated in the national agreement between Federal OSHA and AGC of America. Implementation of a State level partnering charter is expected to result in decreased injuries, illnesses, and fatalities in the construction industry.

The parties agree that this agreement is effective until **May 23, 2013**, after which it may be re-negotiated upon request of either party. The parties may make changes or amendments during the course of the agreement, upon mutual agreement.

Agreed to this 18th day of May, 2010

Sarah Cottrell for _____
Ron Curry
Secretary, NMED

Tony Thomas _____
Tony Thomas, 2010 President
NM Building Branch, AGC

Vicki Mora _____
Victoria D. Mora, CEO
NM Building Branch, AGC

Butch Tongate _____
Butch Tongate
Bureau Chief, NM OSHA

James Magoffe _____
James Magoffe, 2010 Chair
AGC Safety, Health, and
Environment Committee

Margo A. Maher _____
Margo A. Maher, AGC Director of Safety

Section A – Preamble

In May, 2001, the New Mexico Building Branch, Associated General Contractors, and the Occupational Health and Safety Bureau, New Mexico Environment Department (NM OSHA), mutually agreed to a Construction Health and Safety Excellence (CHASE) Partnership. It was the first CHASE Partnership in the country and the first such partnership between an AGC chapter with a State Plan OSHA State.

On May 23, 2007, the parties agreed to a renewal of the Partnership for another three-year period.

In essence, CHASE allows certain incentives to be granted to participating contractors by NM OSHA in exchange for commitments by those contractors to follow certain prescribed rules and procedures in their safety programs.

There are three levels of participation---Red, White, and Blue (with Blue being the highest). AGC members who wish to participate go through the following procedure:

- I. Fill out attached application form with self-evaluation questionnaire.
- II. Return it to **AGC Safety and Health Committee, 1615 University Blvd. NE, Albuquerque, N.M., 87102**, with \$100.00 application fee.
- III. The application will be reviewed by a three-person Evaluation/Verification Sub-Committee of the AGC Safety, Health, and Environment Committee which will make a recommendation as to participation and at what level. In the case of Blue level applicants, an AGC Verification Team will perform jobsite visits.
- IV. When approval is granted by the sub-committee, the chapter will recommend to NM OSHA that the applicant be accepted into the CHASE program and at what level.
- V. If NM OSHA concurs, it will issue a certificate of participation to the company.

The Partnership between AGC and NM OHSA is for three years, after which it may be renegotiated. Enrollment is open year-round for applicants.

Participation in CHASE is a reward to a contractor for his or her dedication to safe working practices on their jobsites. This dedication must include a commitment to continue having a strong safety program and an outstanding safety record.

For further information on CHASE, please contact Margo A. Maher, Director, AGC Workforce Development, Safety and Education, 505-842-1462, mmaher@agc-nm.org.

Section B - Application

AGC CONTRACTOR APPLICATION
FOR CHASE PARTNERSHIP

Directions: Please answer questions below for your company which performs work in the area covered by the Occupational Health and Safety Bureau, New Mexico Environment Department (NM OSHA). The CHASE Partnership between NM OSHA and the New Mexico Building Branch, AGC, applies to NM OSHA's jurisdiction and is reciprocal with work performed under the jurisdiction Region VI of Federal OSHA in New Mexico.

Company Name: _____

Address: _____

Phone Number: _____ **Fax Number:** _____

Company Contact: _____ **Contact's Title:** _____

- **Classification of Contractor:** _____, General Contractor
_____, Sub or Specialty Contractor; Type of
Specialties: _____

(dry wall, plastering, masonry, steel erection,
mechanical, roofing, electrical, sheet metal, etc.)

- **Trades Employed:** _____

- **Average No. of Employees:** _____
- **Average No. of Supervisors** _____
- **Average No. of Annual Work Hours:** _____
- **Does your company have a Safety Department?** _____ (YES) _____ (NO)
- **Do you budget for Safety?** _____ (YES) _____ (NO)
- **Date of last OSHA Inspection:** _____ **State or Federal? (Please Circle One)**

- Date of any willful OSHA violation in last three years from the NM OSHA Office; _____ from the Federal Office: _____
- Date of any repeat serious violations in the last three years from the NM OSHA Office: _____; from the Federal OSHA Office: _____
- Date of any fatalities or catastrophes within the last three years that resulted in serious or willful citations related to the incident from NM OSHA: _____; from Federal OSHA; _____.
- What is your standard injury/illness incidence rate for all work-related recordable injuries and illnesses for each of the past three years?

2007: _____ 2008: _____ 2009: _____

Note: An injury/illness incidence rate is determined by the following formula:

$$\frac{\text{No. of Recordable Injuries/ Illnesses} \times 200,000}{\text{No. of Total Hours Worked}}$$

No. of Total Hours Worked

- What is your lost workday case incidence rate for the past three years?

2007: _____ 2008: _____ 2009: _____

Note: A lost workday incidence rate is determined by the following formula:

$$\frac{\text{No. of Lost Workdays/Cases} \times 200,000}{\text{No. of Work Hours of Exposure}}$$

No. of Work Hours of Exposure

- Does your company currently have a comprehensive Safety and Health Program?

_____ (YES) _____ (NO)

- Does your company perform drug-testing?

_____ (YES) _____ (NO)

If "**YES**", is it for _____, Post Offer; _____, Random;

_____, Post Accident _____, Probable Cause

For the previous reporting year, please provide the following information:

1. Experience Modification Rate: _____

2. Number of Lost Workdays: _____

3. Number of Fatalities: _____

4. Number of Restricted Workdays: _____

5. Number of Medical Only Cases: _____

The Safety and Health Committee of the New Mexico Building Branch, AGC, or its designated representative, will review this application and the eligibility requirements spelled out in the attached "Self-Evaluation Program" guidelines to determine your eligibility for the program and the level at which you should be recommended to New Mexico OSHA for participation (red, white, or blue).

The Committee, or its representative, will perform this evaluation solely to determine whether your company is eligible to participate in the program, and, if so, the level that would be appropriate. This evaluation is not intended to be, and should not be considered, a determination that your company's safety program does or does not meet any applicable legal standards, such as (1) federal safety or health statutes; or (2) any state or local statutes or regulations that also address occupational safety and health. In addition, the Committee or its representative will not attempt to determine whether or not your company is exercising a "reasonable standard of care" or whether its safety program ensures a "safe and healthful working environment" for either your own or any other company's employees. The New Mexico Building Branch, AGC, and its Safety and Health Committee disclaim, and do not undertake, any liability or other responsibility for any claim that may arise out of your company's performance of its obligations either to its employees or others.

It is understood that by signing this application form for the CHASE program, you and your company acknowledge and accept the limited scope and purpose of the evaluation that the Chapter's Safety and Health Committee or its designated representative will perform.

I hereby certify that all information contained herein is accurate:

Name (printed): _____ Title: _____

Signature: _____ Date: _____

Company: _____

This application is intended for the following level (please check one)

☐ **Red** ☐ **White** ☐ **Blue**

(It is understood that the Committee may determine that another level is more appropriate. If such is the case, it is possible to move up in levels after one year.)

Please return this application along with your self-evaluation form to mmaher@agc-nm.org; or FAX to 842-1980 or mail to:

**AGC Safety and Health Committee
1615 University Blvd. NE
Albuquerque, N.M., 87102**

Section C - Evaluation

NEW MEXICO OCCUPATIONAL
HEALTH AND
SAFETY BUREAU
&
ASSOCIATED GENERAL
CONTRACTORS OF AMERICA
NEW MEXICO BUILDING BRANCH

SELF-EVALUATION PROGRAM FOR CHASE

Eligibility: To determine at which level of the CHASE Partnership a contractor can qualify as a participant, the contractor must provide the chapter safety committee or the chapter's designated representative with evidence of meeting each requirement listed below for the specific level. If the contractor wants to proceed to a higher level after one year and have his or her program reviewed by a verification team made up of NM OSHA and AGC representatives, the contractor must meet the requirements for the next higher level. If the contractor answers "yes" to all questions at the level to which he is applying, he is eligible to become a CHASE participant at that level.

<u>RED LEVEL</u>	<u>YES</u>	<u>NO</u>
1. Contractor has implemented a written Safety and Health program.	_____	_____
2. Contractor conducts weekly employee safety meetings.	_____	_____
3. Contractor conducts and documents self-audits.	_____	_____

WHITE LEVEL**YES****NO**

- | | | |
|--|-------|-------|
| 1. Contractor has implemented a comprehensive written safety and health program. | _____ | _____ |
| 2. One trained employee administers the firm's safety and health program and conducts documented inspections of all work. | _____ | _____ |
| 3. Contractor conducts new employee orientation of the firm's safety and health program and trains employees for hazard recognition specific to the contractors' work sites. | _____ | _____ |
| 4. Contractor conducts weekly employee safety meetings | _____ | _____ |
| 5. Contractor conducts and documents self-audits. | _____ | _____ |
| 6. Contractor has evidence of employee involvement such as, but not limited to participation in self-audits, site inspections, job hazard analyses, safety and health program reviews, safety training and mishap investigation. | _____ | _____ |
| 7. Contractor maintains a substance abuse program. | _____ | _____ |
| 8. Contractor provides all field construction supervisory personnel with training equivalent to the AGC Supervisory Safety Competency Training Course.* | _____ | _____ |
| 9. Contractor maintains a lost workday case incidence rate at or below the current <u>New Mexico BLS</u> published rate for its <u>NAICS</u> code. | _____ | _____ |

BLUE LEVEL

YES

NO

- | | | |
|---|-------|-------|
| 1. Contractor has implemented a comprehensive written safety and health program for all of the Blue participant's work. | _____ | _____ |
| 2. Contractor maintains a copy of its specialty contractors' safety and health plan, hazard communication plan (where applicable) or contractor requires specialty contractor to follow Blue participant's plan. | _____ | _____ |
| 3. Contractor has employee who administers the firm's safety and health program and conducts documented safety inspections of all work. The employee has completed the AGC Safety Management Course or equivalent in the previous three years.*** | _____ | _____ |
| 4. Contractor has designated personnel at each site conducting documented safety inspections of Blue participant's work, and has authority to take prompt corrective action. The employee shall have completed the <i>"AGC Construction Jobsite Safety Specialist"</i> course or equivalent within the previous three years. | _____ | _____ |
| 5. Contractor has trained all field supervisory personnel. In addition to a supervisory safety competency course, additional training has been provided for competent persons in such areas as scaffolding, excavation, fall protection, crane operations (this additional training will be predicated by the type and scope of the work the contractor routinely conducts) | _____ | _____ |
| 6. Contractor conducts new employee safety orientation of the firm's safety and health program and trains employees for hazard recognition specific to the contractor's work sites. | _____ | _____ |

- | | | |
|---|-------|-------|
| 7. Contractor has evidence of employee involvement such as, but not limited to, participation in self-audits, site inspections, job hazard analyses, safety and health program reviews, safety training, and mishap investigations. | _____ | _____ |
| 8. Contractor maintains substance abuse screening program. | _____ | _____ |
| 9. Contractor conducts weekly employee safety meetings. | _____ | _____ |
| 10. Contractor conducts and documents self-audits. | | |
| 11. Contractor uses a six-foot Fall Protection Policy. **** | _____ | _____ |
| 12. Contractor maintains an injury/illness rate less than the current New Mexico published rate. ** | _____ | _____ |
| 13. An inspection of one representative <u>jobsite has been completed by the a blue level/NM OSHA verification team</u> | _____ | _____ |
| 14. Contractor has not had any willful violations in the last three years. | _____ | _____ |
| 15. Contractor has not had any repeated serious violations in the last three years. | _____ | _____ |
| 16. Contractor has not had any fatalities or catastrophes within the last three years that resulted in serious or willful citations related to the incident. | _____ | _____ |

Additional Requirement at Blue Level

Blue Level participants are required to complete monthly self-audit reports of their jobsites and maintain them on their job sites. These reports must show the hazards that were encountered and how they were abated. The job site reports shall be made available to the verification team when requested.

Inspection reports for monthly inspections will be used to develop assurance that the self-regulation is taking place. They will not be used to impose citations and penalties from a compliance standpoint for a Blue level participant, as long as that participant is in the program. Nor will they be passed on to another agency or group for purposes of issuing citations and penalties.

Jobsite Visits: NM OHSA and AGC will conduct jobsite visits at random. ---AGC demands an accountability system through which the contractor must abate or mitigate any deficiencies immediately. Recognizing that some deficiencies may take longer to abate or mitigate, a process is established through which two members of the visitation team will return within 10 days to make sure that the deficiencies have been corrected;

Contractors who do not comply with the program requirements, after being warned through the inspection process, will be dropped one level. If deficiencies persist (at least three times after being warned), they will be dropped from the program. NM OHSA will be contacted to assist in making the necessary evaluations here and, also, in assisting the contractor with compliance suggestions.

If the contractor has answered “**NO**” to any of these questions, then the contractor is not eligible to become a signatory at the Blue level. If the contractor has answered “**YES**” to all of the questions, then the contractor is eligible to become a signatory participant at the Blue level.

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**For Evaluation Sub-Committee of AGC Safety, Health, and
Environment Committee:**

Applicant meets requirements for a Partnership:

____ *Yes* ____ *No*

Level: ☐ *Red* ☐ *White* ☐ *Blue*

Names of

Sub-Committee Members: _____

Comments (please add pages, as needed):

Footnotes:

* The OSHA 10-hour class covers the same subject matter as the “**AGC Supervisor Competency Course**” and, thus, would be an equivalent Course.

** The most recently published injury/illness rate is available from the Bureau of Labor Statistics (BLS), U.S. Department of Labor for non-residential building contractors in New Mexico. For purposes of figuring how the rate of your company compares with the New Mexico rate, you should consider your average incidence rate over the past three years and compare it to that rate. For further information on the North American Industry Classification System (NAICS) please check the OSHA website, www.osha.gov or call the chapter office, (505) 842-1462.

*** The AGC Safety Management Class is offered periodically by AGC of America in different parts of the country. Comprehensive safety courses, where management is an integral part of the curriculum, can be substituted here. These courses include OSHA 500 Instructor's Course and CE 475/575, offered through the University Of New Mexico Department Of Civil Engineering; or safety classes offered through other institutions of learning, following review of the curricula by AGC and NM OHSA.

**** This six-foot policy applies to all work covered by Subpart M. The performance requirements which are spelled out in Subpart L (Scaffolds); Subpart X (Stairways, Stair rail Systems, and Handrails), and Subpart V (Power Transmission Lines) apply for those task areas. For Subpart R (Steel Erection), the 15-ft. threshold policy for fall protection, which was developed by AGC steel erectors and endorsed by the AGC Safety, Health, and Environment Committee and Board of Directors applies.

INCENTIVES FROM OSHA AT EACH LEVEL OF CHASE

Red Level

1. Red participants will not receive citations for other-than-serious violations, provided that the hazards are abated within a prescribed period of time.

White Level

1. White participants will be given special recognition from OSHA and AGC designating the contractor as a participant in the CHASE program.
2. White participants will not receive citations for other-than-serious violations provided that the hazards are abated within a prescribed period of time.
3. White participants will be given maximum good faith penalty reductions currently available in the OSHA policy.

Blue Level

1. Blue participants will be given special recognition by OSHA and AGC designating the contractor as a Blue participant in the CHASE program. This recognition will include presentation of one CHASE Partnership banner to the Blue level participant. Additional banners may be purchased by the participating company from the vendor through NM OHSA after a site verification visit. Site(s) displaying the Partnership Banner is expected to exceed the minimal acceptable standards.

2. Blue participant jobsites within the Area Office jurisdiction will not receive another programmed inspection with the next 12 months.
3. Blue participants will receive unprogrammed inspections only in response to reports of imminent danger, fatalities/catastrophes, and complaints. OSHA will use telephone or FAX investigations to handle all referrals other than those involving serious injuries. When an inspection of a referral is deemed necessary, a copy of the referral will be provided to the Safety Director or other designated representative at the time of inspection.
4. OSHA will not issue citations for other-than-serious violations provided the violations are abated at the time of inspection.
5. If cited by OSHA, Blue participants will receive maximum good faith and history penalty reductions currently available under existing OSHA policy.
6. During an OSHA inspection, Blue participants whose program has been previously verified by an OSHA inspection will not be included in the inspection unless the Compliance Officer documents that the participant is responsible for any employee exposures to several hazards such as falls, struck by, caught in/between, or electrocution hazards.